

Internal Revenue Service

Number: **201312022**

Release Date: 3/22/2013

Index Number: 355.01-00, 368.04-00

Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

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PLR-141329-12

Date:

December 19, 2012

Legend

Distributing =

Controlled =

Parent =

Sub 1 =

Sub 2 =

Sub 3 =

Sub 4 =

Sub 5 =

Sub 6 =

Sub 7 =

Sub 8 =

FSub 1 =

FSub 2 =

FSub 3 =

FSub 4 =

FSub 5 =

FSub 6 =

FSub 7 =

FDRE 1 =

FDRE 2 =

FDRE 3 =

FDRE 4 =

FDRE 5 =

FDRE 6 =

FDRE 7 =

FDRE 8 =

FDRE 9 =

FDRE 10 =

Business A =

Business B =

Business B Strategy =

Country A Loss =

Country A =

State A =

State B =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

a =

b =

c =

d =

e =

Loan A =

Loan B =

Loan C =

Loan D =

Country A Tax =

Country A Plan =

Dear :

This letter responds to Parent's request dated September 21, 2012, submitted by its authorized representative, for rulings regarding certain federal income tax consequences of the Proposed Transactions (as defined below). The information provided in that request and in subsequent correspondence is summarized below.

The rulings contained in this letter are based on facts and representations submitted by the taxpayer and accompanied by a penalties of perjury statement executed by an appropriate party. This office has not verified any of the material submitted in support of the request for rulings. Verification of the information, representations, and other data may be required as part of the audit process.

Moreover, this office has not reviewed any information pertaining to, and has made no determination regarding, whether the Spin-off (described in step (ix) below): (i) satisfies the business purpose requirement of Treas. Reg. § 1.355-2(b); (ii) is used principally as a device for the distribution of earnings and profits of the distributing corporation or the controlled corporation or both (section 355(a)(1)(B) and Treas. Reg. § 1.355-2(d)); or (iii) is part of a plan (or series of related transactions) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest in the distributing corporation or the controlled corporation (section 355(e) and Treas. Reg. § 1.355-7).

Summary of Facts

Parent, a State B corporation, is the common parent of an affiliated group of corporations that join in the filing of a consolidated federal income tax return (the “Parent Group”). Parent indirectly owns Sub 1, a State A limited liability company that is classified as a corporation for federal income tax purposes and is a member of the Parent Group. Sub 1 directly and wholly owns FDRE 1, a Country A entity that is disregarded as an entity separate from Sub 1 for federal income tax purposes. FDRE 1 owns all of the outstanding common stock of Distributing, a Country A entity that is classified as a corporation for federal income tax purposes. Parent has a number of other directly and indirectly owned subsidiaries, including Sub 2, Sub 3, Sub 4, Sub 5, Sub 6, Sub 7, and Sub 8, each of which is a member of the Parent Group.

Controlled is a Country A entity and a direct wholly-owned subsidiary of Distributing. Controlled is currently disregarded as an entity separate from Distributing for federal income tax purposes. Controlled will effect an entity classification election under Treas. Reg. §§ 301.7701-1, *et seq.*, to be classified as a corporation for federal income tax purposes, effective immediately prior to (and as a part of) the Controlled Contribution (as defined below).

The outstanding stock of Sub 1 consists of one class of preferred stock and three classes of tracking stock. Each class of Sub 1 tracking stock is held by a different member of the Parent Group (Sub 2, Sub 3, and Sub 4, respectively). Sub 4 and Sub 5, each an indirect owner of Distributing common stock, also have tracking stock outstanding. In addition, Parent and Sub 3 are parties to an internal agreement (the “Agreement”) pursuant to which a party that receives assets or assumes liabilities associated with a business managed by the other party must take steps to transfer such assets (or assets of equivalent value) to, and must be held harmless from such liabilities by, such other party.

FDRE 1 serves as a parent company for Parent’s various businesses in Country A. FDRE 1 owns, directly and through its wholly-owned subsidiary FDRE 2, all of the outstanding stock of FSub 1. FSub 1 is a Country A entity that is classified as a corporation for federal income tax purposes. FDRE 2 is a Country A entity that is disregarded as an entity separate from Sub 1 for federal income tax purposes.

Prior to the Proposed Transactions, Distributing had four intercompany instruments outstanding – Loan A, Loan B, Loan C, and Loan D (the “Loans”) – in addition to its common stock. Each of the Loans was denominated as a subordinated loan and treated as debt for Country A tax purposes. Loan A and Loan B were held by Sub 3, and Loan C and Loan D were held by Sub 7. Parent represents that for federal income tax purposes, Loan A, Loan C, and Loan D (the “Hybrid Loans”) were properly characterized as equity, and that Loan B was properly characterized as debt.

Distributing is engaged in the conduct of Business A and Business B through members of its separate affiliated group (within the meaning of section 355(b)(3)(B)) (the "Distributing SAG"). The Distributing SAG conducts Business A primarily through FDRE 3 (a Country A entity that is disregarded as an entity separate from Distributing for federal income tax purposes) and its subsidiaries, including FSub 2, a Country A entity that is wholly owned by FDRE 3 and classified as a corporation for federal income tax purposes. In connection with the conduct of Business A, FDRE 3 also utilizes the services of certain employees of FSub 3, an entity that is classified as a corporation and treated as wholly owned by FSub 1 for federal income tax purposes. The Distributing SAG conducts Business B primarily through (i) Controlled's direct and indirect subsidiaries (including FSub 4 and FSub 5) and (ii) FDRE 4 and its direct and indirect subsidiaries.

FSub 4 is a Country A entity that is wholly owned by Controlled and classified as a corporation for federal income tax purposes. FSub 5 is a Country A subsidiary of FSub 4 that is classified as a corporation for federal income tax purposes. FSub 5 is engaged, directly and through its subsidiaries, in the conduct of Business B. FSub 5 owns, directly and indirectly, interests in a number of subsidiary entities that are classified for federal income tax purposes as corporations, partnerships, or disregarded entities (including FDRE 5). At the time of the Spin-off, each of FSub 4 and FSub 5 will be treated as a member of Controlled's separate affiliated group (within the meaning of section 355(b)(3)(B)) (the "Controlled SAG").

FDRE 4 and FDRE 6 are Country A entities that are disregarded as separate from Distributing for federal income tax purposes. Distributing owns, directly and through FDRE 6, all of the outstanding shares of FDRE 4. FDRE 4 owns, directly and indirectly, interests in a number of subsidiary entities that are classified, for federal income tax purposes, as corporations, partnerships, or disregarded entities (including FDRE 7).

Prior to the Proposed Transactions, Distributing owned, directly and through FDRE 4 and FDRE 8, all of the outstanding shares of FDRE 9. FDRE 4 owned, directly and through FDRE 10 (a directly and wholly owned subsidiary of FDRE 4), all of the outstanding shares of FDRE 8. Each of FDRE 8, FDRE 9, and FDRE 10 was disregarded as an entity separate from Distributing for federal income tax purposes.

In connection with the Spin-off, the Distributing SAG will rely upon Business A as its five-year active trade or business for purposes of section 355(b), and the Controlled SAG will rely upon Business B as its five-year active trade or business for purposes of section 355(b).

The taxpayer has submitted financial information indicating that Business A and Business B have each had gross receipts and operating expenses representative of the active conduct of a trade or business for each of the past five years.

Proposed Transactions

For what are represented to be valid business purposes, Distributing has undertaken, or proposes to undertake the following steps (the “Proposed Transactions”):

- (i) FDRE 4 distributed a in cash to Distributing on or around Date 1 and b in cash to Distributing on or around Date 2. Distributing used the cash received from FDRE 4 and other sources of cash to satisfy certain of its liabilities.
- (ii) FDRE 8 transferred its FDRE 9 share to FDRE 4 in exchange for c in cash on or around Date 3.
- (iii) FDRE 6 transferred its FDRE 4 shares to Distributing in exchange for d in cash on or around Date 3.
- (iv) FDRE 4 distributed its FDRE 9 shares to Distributing on or around Date 2.
- (v) Distributing transferred e in cash to Sub 3 in satisfaction of its principal and accrued interest obligations under Loan B.
- (vi) On or around Date 4, the Hybrid Loans were retired pursuant to the following steps: (a) Sub 3 transferred Loan A to Sub 6 in exchange for shares of Sub 6 preferred stock; (b) Sub 7 transferred Loan C and Loan D to Sub 6 in exchange for shares of Sub 6 preferred stock; (c) Sub 6 contributed the Hybrid Loans to Sub 1; (d) Sub 1 transferred the Hybrid Loans to FDRE 1 in exchange for FDRE 1 shares; and (e) Distributing increased its share capital by an amount equal to the aggregate face amount of the Hybrid Loans, FDRE 1 subscribed for Distributing’s new share capital, and the FDRE 1 payable and the Hybrid Loans were fully offset against each other and cancelled in connection with the subscription.
- (vii) Distributing will contribute all of the outstanding shares of FDRE 4 to Controlled in exchange for shares of Controlled stock and, as part of the same plan, Controlled will effect an entity classification election under Treas. Reg. §§ 301.7701-1, *et seq.*, to be classified as a corporation for federal income tax purposes, effective immediately prior to the contribution of the FDRE 4 shares to Controlled (the assets of Controlled and FDRE 4 are collectively referred to as the “Contributed Assets” and the contribution and entity classification election are collectively referred to as the “Controlled Contribution”).

- (viii) Immediately after the Controlled Contribution, Controlled will contribute the FDRE 4 shares and certain other assets to FSub 4 in exchange for shares of FSub 4 stock.
- (ix) Distributing will distribute all of the outstanding shares of Controlled stock to FDRE 1 (the "Spin-off").
- (x) Controlled will acquire all of the outstanding shares of FDRE 8 from FDRE 4 and FDRE 10 in exchange for an amount of cash approximately equal to the fair market value of such shares.
- (xi) FDRE 4 will merge under Country A law with and into FSub 5, with FSub 5 surviving. FSub 4 will receive shares of FSub 5 voting stock in exchange for the FDRE 4 shares surrendered in the merger. This step will in any event occur only after the consummation of the Spin-off, but may occur at an earlier or later point in the steps after the Spin-off.
- (xii) Controlled will transfer certain of its assets and liabilities to FDRE 8 and contribute all of the outstanding shares of FDRE 8 to FSub 4. Immediately thereafter, FSub 4 will contribute all of the outstanding FDRE 8 shares to FSub 5.
- (xiii) FDRE 2 will merge under Country A law with and into FDRE 1, with FDRE 1 surviving. In connection with this transaction, the limited liability company agreement of Sub 1 will be amended, if necessary, to ensure that each class of Sub 1 tracking stock continues to track the businesses and assets that it tracked immediately prior to the merger. This step will in any event occur only after the consummation of the Spin-off, but may occur at an earlier or later point in the steps after the Spin-off.
- (xiv) Controlled will merge under Country A law with and into FSub 1, with FSub 1 surviving (the "Merger"). In the Merger, FSub 1 will acquire all of the assets and will succeed to all of the liabilities of Controlled, all of the outstanding shares of Controlled stock will be cancelled in exchange for shares of FSub 1 stock, and Controlled will cease to exist as a separate legal entity. In connection with the Merger, the limited liability company agreement of Sub 1 will be amended, if necessary, to ensure that each class of Sub 1 tracking stock continues to track the businesses and assets that it tracked immediately prior to the Merger.
- (xv) Following the Merger, FSub 4 will merge under Country A law with and into FSub 1, with FSub 1 surviving. In this step, FSub 1 will acquire all of the assets and succeed to all the liabilities of FSub 4, all of the outstanding

shares of FSub 4 stock will be cancelled, and FSub 4 will cease to exist as a separate legal entity.

- (xvi) FDRE 7 will merge under Country A law with and into FDRE 5, with FDRE 5 surviving. This step will in any event occur only after the consummation of the Spin-off, but may occur at an earlier point in the steps after the Spin-off.

Representations

The following representations have been made with respect to the Proposed Transactions:

The Controlled Contribution and the Spin-off

- (a) At the time of the Controlled Contribution, the total adjusted basis and the fair market value of the Contributed Assets will equal or exceed the sum of (i) the total amount of any liabilities assumed (as determined under section 357(d)) by Controlled and (ii) the total amount of any money and the fair market value of any other property (within the meaning of section 361(b)) received by Distributing and transferred to its creditors in connection with the reorganization.
- (b) Any liabilities assumed (as determined under section 357(d)) by Controlled in the Controlled Contribution will have been incurred in the ordinary course of business and will be associated with the Contributed Assets.
- (c) At the time of the Controlled Contribution, the total fair market value of the Contributed Assets will exceed the sum of (i) the amount of any liabilities assumed (as determined under section 357(d)) by Controlled in connection with the Controlled Contribution, (ii) the amount of any liabilities owed to Controlled by Distributing that were discharged or extinguished in connection with the Controlled Contribution, and (iii) the amount of any cash and the fair market value of any other property (other than stock and securities permitted to be received under section 361(a) without the recognition of gain) received by Distributing in connection with the Controlled Contribution. The fair market value of the assets of Controlled will exceed the amount of its liabilities immediately after the Controlled Contribution.
- (d) The aggregate fair market value of the Contributed Assets will equal or exceed the aggregate adjusted basis of those assets at the time of the Controlled Contribution.
- (e) Neither Distributing nor Controlled is an investment company as defined in section 368(a)(2)(F)(iii) and (iv).

- (f) Any indebtedness owed by Controlled (or any entity controlled directly or indirectly by Controlled) to Distributing (or any entity controlled directly or indirectly by Distributing) after the Spin-off will not constitute stock or securities.
- (g) No part of the consideration treated as distributed to Sub 1 will be received as a creditor, employee, or in any capacity other than that of a shareholder of Distributing.
- (h) The five years of financial information submitted for Business A, conducted by the Distributing SAG, and for Business B, conducted by the Controlled SAG, is representative of the present operation of each business, and there have been no substantial operational changes in either business since the date of the last financial statements submitted, other than changes made in the ordinary course of business.
- (i) The Distributing SAG will continue the active conduct of Business A, independently and with its separate employees, following the Spin-off, except that Business A will continue to utilize the services of certain employees of FSub 3 after the Spin-off.
- (j) The Controlled SAG will continue the active conduct of Business B, independently and with its separate employees, following the Spin-off, consistent with the Business B Strategy.
- (k) Payments made in connection with all continuing transactions, if any, between Distributing (or any entity controlled directly or indirectly by Distributing) and Controlled (or any entity controlled directly or indirectly by Controlled) will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.
- (l) Neither Business A nor control of an entity conducting Business A (other than FSub 2 and FSub 7) will have been acquired during the five-year period ending on the date of the Spin-off in a transaction in which gain or loss was recognized in whole or in part. Throughout the five-year period ending on the date of the Spin-off, the Distributing SAG will have been the principal owner of the goodwill and significant assets of Business A and will continue to be the principal owner following the Spin-off.
- (m) Neither Business B nor control of an entity conducting Business B will have been acquired during the five-year period ending on the date of the Spin-off in a transaction in which gain or loss was recognized in whole or in part. Throughout the five-year period ending on the date of the Spin-off, the Distributing SAG will have been the principal owner of the goodwill and significant assets of Business

B, and the Controlled SAG will continue to be the principal owner following the Spin-off.

- (n) The Spin-off is being carried out to: (i) reduce the regulatory uncertainty associated with Distributing owning the assets of Business B; (ii) produce cost savings attributable to the administration and compliance costs associated with Business B being part of the regulated Distributing group; (iii) permit the management and finance teams of Business B to focus more exclusively on Business B, rather than on regulatory reporting requirements; (iv) reduce the amount of the Country A Tax imposed on Distributing; (v) simplify any Country A Plan for Distributing; (vi) allow the FDRE 1 tax group potentially to realize a future Country A tax benefit attributable to the Country A Loss; and (vii) facilitate the movement of liquidity during times of stress. The Spin-off is motivated in whole or substantial part by these corporate business purposes.
- (o) The Spin-off will not be used principally as a device for the distribution of the earnings and profits of Distributing or Controlled or both.
- (p) No intercorporate debt will exist between Distributing (or any entity controlled directly or indirectly by Distributing) and Controlled (or any entity controlled directly or indirectly by Controlled) at the time of, or subsequent to, the Spin-off, other than intercompany loans or other obligations that have arisen, or will arise, in the ordinary course of business.
- (q) Immediately after the transaction (as defined in section 355(g)(4)), either (i) if any person holds a 50-percent or greater interest (within the meaning of section 355(g)(3)) in any disqualified investment corporation (within the meaning of section 355(g)(2)), such person will have held such interest in such corporation immediately before the transaction, or (ii) neither Distributing nor Controlled will be a disqualified investment corporation (within the meaning of section 355(g)(2)).
- (r) For purposes of section 355(d), immediately after the Spin-off, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Distributing stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Distributing stock, that was acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Spin-off. This representation is based on the determination that, as a result of section 355(d)(7)(A), neither the outstanding tracking stock of Sub 1 and other members of the Parent Group held solely by members of the Parent Group nor the Agreement will cause section 355(d)(6) to apply to the Spin-off.

- (s) For purposes of section 355(d), immediately after the Spin-off, no person (determined after applying section 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Controlled stock entitled to vote, or 50 percent or more of the total value of shares of all classes of Controlled stock, that was either (i) acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Spin-off or (ii) attributable to distributions on Distributing stock or securities that were acquired by purchase (as defined in section 355(d)(5) and (8)) during the five-year period (determined after applying section 355(d)(6)) ending on the date of the Spin-off. This representation is based on the determination that, as a result of section 355(d)(7)(A), neither the outstanding tracking stock of Sub 1 and other members of the Parent Group held solely by members of the Parent Group nor the Agreement will cause section 355(d)(6) to apply to the Spin-off.
- (t) The Spin-off is not part of a plan or series of related transactions (within the meaning of Treas. Reg. § 1.355-7) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest (within the meaning of section 355(d)(4)) in Distributing or Controlled (including any predecessor or successor of any such corporation).
- (u) Loan B was properly characterized as debt for U.S. federal income tax purposes.
- (v) Loans A, C, and D were properly characterized as equity for U.S. federal income tax purposes.
- (w) Neither Distributing nor Controlled will hold any United States real property interests, as defined in section 897(c)(1), immediately before or after the Spin-off.
- (x) There is no regulatory, legal, contractual or economic compulsion or requirement that the Hybrid Loans be transferred to Distributing as a condition to the Spin-off.
- (y) The notice requirements of Treas. Reg. § 1.367(b)-1(c)(1) will be met with respect to the Spin-off.
- (z) Immediately before and after the Controlled Contribution and the Spin-off, Distributing and Controlled each will be a controlled foreign corporation (within the meaning of section 957(a)) with respect to which Sub 1 will be a section 1248 shareholder (within the meaning of Treas. Reg. § 1.367(b)-2(b)).
- (aa) At all times before and immediately after the Controlled Contribution and the Spin-off, neither Distributing nor Controlled has been or will be a passive foreign investment company (within the meaning of section 1297(a)).

- (bb) The Controlled Contribution is not an exchange described in Treas. Reg. §§ 1.367(b)-4(b)(1)(i), 1.367(b)-4(b)(2)(i), or 1.367(b)-4(b)(3).
- (cc) With respect to any existing gain recognition agreement (GRA) previously entered into by Parent, as parent of the Parent Group, in connection with a prior transfer of stock or securities, Parent will, to the extent required under Treas. Reg. §§ 1.367(a)-8(k) and 1.367(a)-8(c)(5), enter into a new GRA (i) identifying all triggering events and exceptions thereto resulting from the Proposed Transactions, (ii) designating a successor transferor corporation, transferee corporation, and/or transferred corporation, as applicable, and (iii) complying with all other requirements for GRAs under Treas. Reg. § 1.367(a)-8. Additionally, Parent will comply with the notification requirements of Treas. Reg. § 1.367(a)-8 with respect to any such GRA.
- (dd) Distributing will neither accumulate its receivables nor make extraordinary payment of its payables in anticipation of the Controlled Contribution and Spin-Off, except for the payment of certain of Distributing's liabilities pursuant to step (i) of the Proposed Transactions.

The Merger

- (ee) The fair market value of the stock of FSub 1 and other consideration received by Sub 1 will be approximately equal to the fair market value of the stock of Controlled surrendered in the Merger.
- (ff) There is no plan or intention by FSub 1 (or any related person as defined in Treas. Reg. § 1.368-1(e)(4)) to acquire any of the FSub 1 stock received by Sub 1 in the Merger.
- (gg) FSub 1 will acquire at least 90 percent of the fair market value of the net assets and at least 70 percent of the fair market value of the gross assets held by Controlled immediately prior to the Merger.
- (hh) FSub 1 has no plan or intention to sell or otherwise dispose of any of the assets of Controlled acquired in the Merger, except for dispositions made in the ordinary course of business, transfers described in section 368(a)(2)(C) or Treas. Reg. § 1.368-2(k), or dispositions made in connection with the Business B Strategy.
- (ii) At the time of the Merger, the fair market value of the assets of Controlled will exceed the sum of (i) any liabilities of Controlled that will be assumed (as determined under section 357(d)) by FSub 1 in connection with the Merger, (ii) the amount of any liabilities to which the transferred assets of Controlled are subject on the date the Merger is effective, and (iii) the amount of any money or the fair market value of any other property (other than stock permitted to be

received under section 361(a) without the recognition of gain) received by Controlled in connection with the Merger.

- (jj) At the time of the Merger, the fair market value of the assets of FSub 1 will exceed the amount of its liabilities (including the liabilities of any disregarded entities).
- (kk) The liabilities of Controlled assumed by FSub 1 plus the liabilities, if any, to which the transferred assets are subject were incurred by Controlled in the ordinary course of its business and are associated with the assets transferred, other than any debt that Controlled may incur to fund its acquisition of FDRE 8 pursuant to step (x) of the Proposed Transactions.
- (ll) The Merger will be undertaken pursuant to a plan of reorganization.
- (mm) Following the Merger, FSub 1 will continue an historic business of Controlled or use a significant portion of Controlled's historic business assets in a business, directly or through one or more members of FSub 1's qualified group (within the meaning of Treas. Reg. § 1.368-1(d)(4)(ii)), other than as contemplated by the Business B Strategy.
- (nn) Immediately after the Merger, Sub 1 will be in control of FSub 1 within the meaning of section 368(a)(2)(H)(i).
- (oo) At the time of the Merger, FSub 1 will not have outstanding any warrants, options, convertible securities, or any other type of right pursuant to which any person could acquire stock in FSub 1 that, if exercised or converted, would affect Sub 1's acquisition or retention of control of FSub 1, as defined in section 368(a)(2)(H)(i).
- (pp) Sub 1, Controlled, and FSub 1 will pay their respective expenses, if any, incurred in connection with the Merger.
- (qq) There will be no intercompany indebtedness existing between Controlled and FSub 1 that will be issued, acquired, or settled at a discount.
- (rr) No two parties to the Merger will be investment companies within the meaning of section 368(a)(2)(F)(iii) and (iv).
- (ss) The Merger will be undertaken for a valid corporate business purpose.
- (tt) Neither Controlled nor FSub 1 is under the jurisdiction of a court in a Title 11 or similar case within the meaning of section 368(a)(3)(A).

- (uu) The notice requirements of Treas. Reg. § 1.367(b)-1(c)(1) will be met with respect to the Merger.
- (vv) The Merger is not an exchange described in Treas. Reg. §§ 1.367(b)-4(b)(1)(i), 1.367(b)-4(b)(2)(i), or 1.367(b)-4(b)(3).
- (ww) Controlled and FSub 1 will each be a controlled foreign corporation, within the meaning of section 957(a), immediately before the Merger, and FSub 1 will be a controlled foreign corporation immediately after the Merger.
- (xx) Sub 1 will be a section 1248 shareholder, within the meaning of Treas. Reg. § 1.367(b)-2(b), with respect to both Controlled and FSub 1 immediately before the Merger, and Sub 1 will be a section 1248 shareholder with respect to FSub 1 immediately after the Merger.

Rulings

Based solely on the information submitted and the representations set forth above, we rule as follows on the Proposed Transactions:

The Controlled Contribution and the Spin-off

- (1) For U.S. federal income tax purposes, the Controlled Contribution in step (vii) will be treated as a transfer by Distributing of the Contributed Assets to a newly formed corporation (Controlled) in exchange for shares of Controlled stock and the assumption by Controlled of the liabilities of Controlled and FDRE 4, and the Spin-off in step (ix) will be treated as a distribution by Distributing of the shares of Controlled stock directly to Sub 1.
- (2) The Controlled Contribution, followed by the Spin-off, will qualify as a reorganization within the meaning of section 368(a)(1)(D). Distributing and Controlled will each be a “party to the reorganization” within the meaning of section 368(b).
- (3) Distributing will not recognize gain or loss on its transfer of the Contributed Assets to Controlled in exchange for Controlled stock and Controlled’s assumption of liabilities in the Controlled Contribution (sections 361(a), 357(a)).
- (4) Controlled will not recognize gain or loss on its receipt of the Contributed Assets from Distributing in exchange for Controlled stock and Controlled’s assumption of liabilities in the Controlled Contribution (section 1032(a)).

- (5) Controlled's basis in each of the Contributed Assets received from Distributing in the Controlled Contribution will equal Distributing's basis in the asset immediately before the Controlled Contribution (section 362(b)).
- (6) Controlled's holding period in each of the Contributed Assets received from Distributing in the Controlled Contribution will include the period during which Distributing held that asset (section 1223(2)).
- (7) Distributing will not recognize gain or loss on its distribution of Controlled stock to Sub 1 in the Spin-off (section 361(c)).
- (8) Sub 1 will not recognize gain or loss (and will not include any amount in income) upon its receipt of Controlled stock in the Spin-off (section 355(a)(1)).
- (9) Sub 1's basis in the stock of Distributing and Controlled immediately following the Spin-off will be the same as its basis in the Distributing stock held immediately before the Spin-off, allocated in proportion to the fair market value of Distributing and Controlled in accordance with section 358(a)(1) and Treas. Reg. § 1.358-2(a) (section 358(b)(2), (c)).
- (10) Sub 1's holding period in the Controlled stock received in the Spin-off will include the holding period of the Distributing stock with respect to which the Spin-off is made, provided that Sub 1 holds such Distributing stock as a capital asset on the date of the Spin-off (section 1223(1)).
- (11) Distributing's earnings and profits, if any, will be allocated between Distributing and Controlled in accordance with section 312(h) and Treas. Reg. § 1.312-10(a).
- (12) The Spin-off will be an exchange to which Treas. Reg. §§ 1.367(b)-1(c), 1.367(b)-5(a), and 1.367(b)-5(c) apply. If Sub 1's postdistribution amount (as defined in Treas. Reg. § 1.367(b)-5(e)(2)) with respect to Distributing or Controlled is less than its predistribution amount (as defined in Treas. Reg. § 1.367(b)-5(e)(1)) with respect to Distributing or Controlled, Sub 1's basis in such stock immediately after the Spin-off must be reduced by the amount of the difference. However, Sub 1's basis in such stock must not be reduced below zero, and to the extent the foregoing reduction would reduce its basis below zero, Sub 1 must instead include such amount in income as a deemed dividend from such corporation. If Sub 1 reduces the basis in the stock of Distributing or Controlled (or has an inclusion with respect to such stock), Sub 1 must increase its basis in the stock of the other corporation to the extent provided in Treas. Reg. § 1.367(b)-5(c)(4).
- (13) The Controlled Contribution will be an exchange to which Treas. Reg. §§ 1.367(b)-1(c) and 1.367(b)-4(a) apply. No amount will be included in income as

a deemed dividend under section 367(b) as a result of the Controlled Contribution.

The Merger

- (14) The Merger will qualify as a reorganization within the meaning of section 368(a)(1)(D). Controlled and FSub 1 will each be a “party to a reorganization” within the meaning of section 368(b).
- (15) Controlled will recognize no gain or loss on the transfer of its assets to FSub 1 in exchange for FSub 1 stock and FSub 1’s assumption of Controlled’s liabilities in the Merger (sections 361(a) and 357(a)).
- (16) FSub 1 will recognize no gain or loss on its receipt of Controlled’s assets in exchange for FSub 1 stock and its assumption of Controlled’s liabilities in the Merger (section 1032(a)).
- (17) Immediately after the Merger, FSub 1’s basis in each asset received from Controlled will be the same as Controlled’s basis in the asset immediately before the Merger (section 362(b)).
- (18) FSub 1’s holding period in each asset received from Controlled in the Merger will include the period during which Controlled held that asset (section 1223(2)).
- (19) Controlled will recognize no gain or loss on the distribution of the FSub 1 stock to Sub 1 in the Merger (section 361(c)(1)).
- (20) Sub 1 will recognize no gain or loss on its exchange of Controlled stock for FSub 1 stock in the Merger (section 354(a)(1)).
- (21) Sub 1’s basis in the FSub 1 stock received in the Merger will be equal to its basis in the Controlled stock exchanged therefor (section 358(a)(1) and Treas. Reg. § 1.358-2(a)).
- (22) Sub 1’s holding period for the FSub 1 stock received in the Merger will include the period during which Sub 1 held the Controlled stock exchanged therefor, provided that Sub 1 held such Controlled stock as a capital asset on the date of the Merger (section 1223(1)).
- (23) FSub 1 will succeed to and take into account the items of Controlled described in section 381(c) (section 381(a) and Treas. Reg. § 1.381(a)-1), subject to the conditions and limitations specified in sections 381, 382, 383, and 384 and the regulations thereunder.

- (24) The Merger will be an exchange to which Treas. Reg. §§ 1.367(b)-1(c) and 1.367(b)-4(a) apply. No amount will be included in income as a deemed dividend under section 367(b) as result of the Merger.

Caveats

No opinion is expressed about the tax treatment of the Proposed Transactions under other provisions of the Code and regulations or on the tax treatment of any conditions existing at the time of, or effects resulting from, the Proposed Transactions that are not specifically covered by the above rulings. In particular, this office has not reviewed any information pertaining to, and has made no determination regarding, whether the Spin-off: (i) satisfies the business purpose requirement of Treas. Reg. § 1.355-2(b); (ii) is used principally as a device for the distribution of earnings and profits of Distributing or Controlled or both (see section 355(a)(1)(B) and Treas. Reg. § 1.355-2(d)); or (iii) is part of a plan (or series of related transaction) under section 355(e)(2)(A)(ii). In addition, no opinion is expressed regarding the U.S. federal income tax treatment of steps (i)-(vi), (viii), (x)-(xiii), or (xv)-(xvi), or as to any amendment of the limited liability company agreement of Sub 1.

Procedural Statements

This ruling letter is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

A copy of this ruling letter must be attached to any income tax return to which it is relevant. Alternatively, any taxpayers filing their tax returns electronically may satisfy this requirement by attaching a statement to the returns that provides the date and control number of this letter ruling.

In accordance with the power of attorney on file with this office, a copy of this letter ruling is being sent to your authorized representatives.

Sincerely,

Maury Passman

Maury Passman
Senior Technician Reviewer, Branch 1
Office of Associate Chief Counsel
(Corporate)

cc: